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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,517	11/13/2001	Miksa Marton	04004.003	4778

7590

07/24/2003

Christopher J. Fildes
Fildes & Outland, P.C.
20916 Mack Avenue, Suite 2
Grosse Pointe Woods, MI 48236

EXAMINER

SHAKERI, HADI

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 07/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,517

Applicant(s)

MARTON, MIKSA

Examiner

Hadi Shakeri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, drawn accessory for an orbital sander, classified in class 451, subclass 456.
 - II. Claims 4-6, drawn to an orbital sander, classified in class 451, subclass 357.
 - III. Claims 7-8, drawn to accessory, classified in class 451, subclass 453.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombination not essential to combination, i.e., AB_{br} / B_{sp} . Where a combination as claimed does not set forth the details of the subcombination as separately claimed. Since claims to both the subcombination and combination are presented and assumed to be patentable, the omission of details of the claimed subcombination B_{sp} in the combination claim AB_{br} is evidence that patentability of the combination does not rely on the details of the specific subcombination. See MPEP § 806.05(c).
3. Inventions III and I are related as subcombination not essential to combination, i.e., B_{sp} / AB_{br} . In this case claim 7, B_{sp} , is evidence claim that claim 1, AB_{br} , does not rely on the details of the sanding pad assembly for patentability. See MPEP § 806.05(c).
4. Inventions III and II are related as subcombination not essential to combination, i.e., B_{br} / AB_{sp} . In this case claim 4, AB_{sp} , is evidence claim that claim 7, B_{br} , does not rely on the details of the sanding pad assembly for patentability, however should applicant traverse on the ground that the species, e.g., sanding pad assemblies as claimed in claim 4 and 7 are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the

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species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Groups I and III, restriction for examination purposes as indicated is proper.

7. A telephone call was made to Mr. Fildes to request an oral election to the above restriction requirement, but did not result in an election being made.

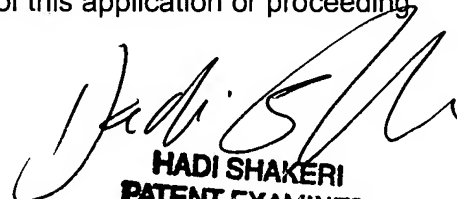
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hadi Shakeri at (703) 308-6279. The examiner can normally be reached on Monday-Thursday, 7:30 AM to 6:00 PM.

Unofficial documents may be faxed to the Examiner at (703) 746-3279.

Official documents at (703) 872-9302, after final at (703) 872-9303.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1148.


HADI SHAKERI
PATENT EXAMINER
July 22, 2003